

**CANBY CITY COUNCIL
REGULAR MEETING
DECEMBER 15, 1993**

WORKSHOP: Present: Mayor Taylor, Councilors Nolder, Prince, Stark and Daniels, Administrator Jordan, Recorder Perkett, Treasurer Biddle, Police Chief Giger, Lieutenant Scharmota, Officer Skipper and Kroeplin, Budget Committee Members Cederquist, Harris, Lindsay and Wilcox, and Cam Sevisend.

The Council and Budget Committee discussed the current Police Department budget deficiency resulting from the arbitration award to the Police Union. The group discussed various methods to solve the current Police Department budget problems.

REGULAR SESSION: Mayor Taylor presiding. Council members present: Dennis Nolder, Cheryl Stark, Walt Daniels and Terry Prince.

Also present: Administrator Michael Jordan, City Attorney John Kelley, City Recorder Marilyn Perkett, City Planner Bob Hoffman, Police Chief Jerry Giger, Joe Driggers, Maureen Miltenberger, Rex Samples, Matt Anderson, Jeff Brandt, Paul Stipe, Don Stasch, Arlene Monen, Jenny Peterson, Terry Doleny, Doretta Schrock, Susan Abe, Charles and Verda Miltenberger, Ed Hamilton, Dan Wilcox, Lois Larson, Peggy Sigler, Tim & Janice Skipper, Greg Kroeplin, Janet Paulson, Cam Sevisend, Channel 8 TV crew and others.

Mayor Taylor called the regular session to order at 7:30 p.m., followed by the flag salute and a moment of focus.

ABSTRACT FOR RECALL ELECTION - Mayor Taylor requested that the Clackamas County abstract of votes be read for the December 14, 1993 election.

Recorder Perkett read the abstract of votes as follows:

Recall Election for Maureen Miltenberger

YES - 1,365

NO - 1,303

OVERVOTES - 2

UNDERVOTES - 65

TOTAL VOTES - 2,735

Recall Election for Joe Driggers

YES - 1,353

NO - 1,296

OVERVOTES - 1

UNDERVOTES - 85

TOTAL VOTES - 2,735

****Councilman Daniels moved to accept the abstract of votes as presented by Clackamas County Elections for the December 14, 1993 Recall Election. Motion seconded by Councilman Nolder and approved 4-0.**

Mayor Taylor stated that both Mr. Driggers and Ms. Miltenberger will no longer be City Councilors. He thanked the two recalled Councilors for the many hours and time spent on the Council. Mayor Taylor said he personally felt they were both good Council members and the Council will suffer in their absence.

At this time, Mayor Taylor presented both Maureen Miltenberger and Joe Driggers with a

gift from the City, engraved as follows, "In Appreciation for Your Dedicated Service as a City Councilor," with the respective names.

Mayor Taylor noted that the Council will now function with four Councilors, and a committee will be formed to interview applicants interested in serving on the Council. He said that we have lost some very valuable assets, and the Council will take all the time necessary to seek replacements for the, now vacant, City Council positions.

Councilman Prince expressed his support for Ms. Miltenberger and Mr. Driggers, and said they will certainly be missed.

MINUTES OF PREVIOUS SESSION: **Councilman Prince moved to adopt the minutes of December 1, 1993 as presented. Motion seconded by Councilman Daniels and approved 4-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: Recall Election - Maureen Miltenberger, 960 N.W. 13th Avenue, addressed the Council and audience regarding her recall by the voters of Canby. She said the number of citizens that voted showed her that there is still concern in the community regarding the issues. Ms. Miltenberger said, "We are still not a community that hates, we are still not a community that discriminates." She also urged citizens to become more involved in the City government. Ms. Miltenberger said that some citizens expressed their embarrassment of the reputation that Canby is creating over this issue. Again, she said, "We are not that type of community."

Ms. Miltenberger read a Canby Herald letter by Patricia Smith which stated that both Ms. Miltenberger and Mr. Driggers have more than a casual interest in homosexuals because of their participation in the "The Summit Building a Hate Free Oregon," sponsored the Governor's Affirmative Action Office. Ms. Miltenberger said she was privileged to attend that conference and some of the things discussed at this conference were diversity as a whole, people of color, Jewish people, disabled citizens, people either larger or smaller than other people, and mental disability. She said the conference actually applied to everyone and encouraged a support group. She said she didn't feel this was wrong and invited others to join in this effort.

Ms. Miltenberger said she had enjoyed being on the Council and had learned a great deal, noting the vast amount of personal time involved as a Councilor. Ms. Miltenberger expressed her thanks to the Mayor and Council and said she would still like to be involved with the City government.

Joe Driggers, 972 N.E. 12th Place, thanked the citizens for giving him an opportunity to serve on the Council. He said, "I am sorry I didn't serve them to their expectations, but I served you the best that I could with the values I have." He thanked Mr. Jordan for helping him and advising him on issues; he thanked Mayor Taylor and said he had been a good role model for him; and also he expressed thanks to the other Council members who tolerated him occasionally forcing discussions that may have been unwanted. Personally, he said this had been a good year, fun for him and a positive experience. Mr. Driggers said he expressed his values and is comfortable with the consequences. He noted that life is not always fair, especially in politics. However, he said, "It's a lot better than the second best system."

Mr. Driggers stated that he moved to Canby in 1954, when everyone knew everybody, and he felt like he had several sets of parents. He said he has carried that "sense of community" into his adult life. He expressed hope that people would work towards that type of community.

Mr. Driggers remarked that the right to vote gives everyone a responsibility, and he had hoped that more people would participate and vote to help make decisions.

Mr. Driggers closed by reciting a Robert Frost poem that he said he often recited to his daughter at night when she was young. He said the poem reflects certain things to him, depending on where he is and what is happening. The final lines were, "The woods are lovely, dark and deep but I have promises to keep and miles to go before I sleep...and miles to go before I sleep."

Arlene Monen, 372 S. Ivy, said she resented outsiders putting their "hate program" in our community. Ms. Monen remarked that she has asked friends to come to Canby, and they will not come because of these issues. Ms. Monen said she hoped there is someone left on the Council that does not believe our community is about hate. She encouraged the Council to reappoint the same two people and felt the small vote was not a representation of our town. She also felt that both Driggers and Miltenberger represented "all human rights." Ms. Monen said the entire issue was one of behavior and noted that this could happen with other behavior patterns. She closed by questioning what would happen if Jesus Christ came to Canby - a 32 year old man, long hair, walking in sandals, homeless, a run away at age 12, ran around with all men, and encouraged 12 men to leave their families and follow him. He did nothing but good, but if he came to Canby, how would he be treated?

Doretta Schrock, 985 N. Ivy, said that both Miltenberger and Driggers were dedicated Councilors and served Canby well, and they are wonderful people. She noted that Council members that represent all of the people. She stated that the Council is now faced with replacing Miltenberger and Driggers with someone who share these same values to restore that representation.

Jenny Peterson, 643 S.W. S. Oak Place, thanked Miltenberger and Driggers for standing up for their belief that all men are created equal. She stated that 51% actually voted on Measure 3-2 again, not the recall of Driggers and Miltenberger. She encouraged the Council to reappoint the two former Councilors, or someone who is not afraid to stand up for their beliefs. Ms. Peterson said the recall instigators used slander and outright lies to divide the City.

Lois Larsen, 677 N.W. 3rd, said she has lived in this town for 30 years and was pleased that Joe Driggers, a man who grew up in Canby, became a part of the government. She had hoped this tradition would continue.

Mayor Taylor read a prepared statement regarding the future in Canby, specifically due to the recall. He stated that the issue has been resolved by a majority vote, providing the issue was about two Council members values. However, if instead the vote was to reemphasize Measure 3-2, it has been a very expensive exercise in terms of dollars, community, and the loss of service of two excellent Councilors. He said the community needs to emphasize future growth, budget, diversity in population and the economy. Mayor Taylor said, "I am calling upon everyone involved to focus energies on issues that will set a ground work for future generations, regain the image of Canby as a positive, friendly place that anyone would want to live in. And that we use the talent, brainpower, and heart we have to move forward into the 21st Century and make this community the shining place it is and let others know that it is."

Councilwoman Stark thanked Joe Driggers and Maureen Miltenberger and noted the time and energy spent as a Councilor. She urged that everyone forget the past and get on with a new year.

CUB Manager - Dirk Borges, addressed the Council regarding two recent long term power outages. He said our current system is really excellent, however, he pointed out that we actually buy power from BPA (Bonneville Power Administration), and they transport it by PGE (Portland General Electric).

Two substations service Canby. One of these, the Twilight station, has had considerable problems. A portable station was installed at that site. Last week the winds created a failure in the portable station.

Mr. Borges reported that they have worked hard to make the system work more efficiently. CUB has negotiated with BPA to upgrade the system, and BPA directed PGE to do the following:

1. Install another breaker at Twilight substation for \$114,00, which will allow for added growth and necessary switching.
2. PGE upgraded the Canby substation off Knights Bridge Road, at PGE cost, and it should be brought on line December 16th.
3. BPA will build a "loop" into the transmission system which allows Canby to use a switching operation in emergency outages.
4. BPA will evaluate the transformer at the Twilight Substation and either replace the transformer or put in a second one.

Mr. Borges said CUB has been improving the system the last two years, and the above listed improvements will enhance the system as well. CUB has also allocated \$100,000 to replace underground wiring in the City where it needs updated.

COMMUNICATIONS: Letter from Lon Burdge - Attorney Kelley informed the Council that Mr. Burdge has requested the City vacate a portion of the S. Pine Street right-of-way and utility easement to provide alignment with the Watson development.

****Councilman Nolder** moved to instruct staff to proceed with the street vacation process on S. Pine Street as requested by Lon Burdge. Motion seconded by Councilman Prince and approved 4-0.

NEW BUSINESS: Accounts Payable - ****Councilman Daniels** moved to approve payment of accounts payable in the amount of \$262,256.63. Motion seconded by Councilwoman Stark and approved by roll call vote, 4-0.

Memorandum of Understanding - Administrator Jordan explained that a MOU is necessary to execute the OEDD award for the Logging Road Industrial Park Project. Mr. Jordan said he had discussed the document with bond counsel, and they recommended we discuss a some clauses with OEDD prior to action. The section of concern is the senior pledge of a security loan on a Storm Drainage Enterprise Fund. Mr. Jordan said the City will request a parody pledge, or secondary interest on a storm drainage fund.

The Council concurred with staff and will wait to act upon the MOU when it returns to the Council.

ORDINANCES & RESOLUTIONS: Ordinance 906 - Bob Hoffman reported that this ordinance is a request by Mr. Watson for rezoning from R-1, to R-2, on his parcel near S. Pine.

****Councilman Daniels** moved to adopt Ordinance No. 906, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON. Motion seconded by Councilman Prince and approved by roll call vote, 4-0.

Mayor Taylor called for a recess at 8:35 p.m. The regular session was reconvened at 8:45 p.m.

Ordinance No. 905 - Bob Hoffman reminded the Council that this draft ordinance was suggested at the last historic workshop. The primary changes were regarding the Historic Review Board and its functions, who can designate landmarks, and the incentive section.

Mr. Hoffman noted that everyone at the workshop, as well as people who testified at a previous meeting, were sent a copy of the proposed ordinance. No one came forward with any comments on the ordinance.

****Councilman Prince moved that Ordinance No. 905, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE, BY ADDING A NEW HISTORIC PRESERVATION DIVISION, DIVISION X AND AMENDING SECTION 16.38, be posted and come up for final action on January 5, 1994. Motion seconded by Councilman Daniels.**

DISCUSSION - Pete Kelley, 1205 N. Hawthorne, noted that only one meeting of two hours had been held on the issue. He also pointed out that the Legislature had strong concern on this issue by passing HB 33551, only to be vetoed by the Governor. Also, as of December 31, 1993, there will be no more tax incentives and grants and loans are starting to "dry up." His concern was specifically the personal property rights issue. He said LCDC is currently in discussions regarding property rights of owners. Mr. Kelley encouraged the Council to delay action until more discussion can take place. He said the ordinance is not good for Canby or property owners.

Mayor Taylor noted that 15-20 people were involved in the workshop on this issue, and all were sent copies of the proposed ordinance, yet none came forward with any comments. He said if the Legislature makes changes regarding the issue, then we can amend this ordinance.

Mr. Kelley said some people were very dissatisfied with the ordinance since personal rights were not protected.

****Vote on the motion to approve, on first reading, Ordinance No. 905, was two for approval and two abstaining, which means the motion FAILED.**

Councilman Daniels questioned why nobody had come forward with comments until tonight.

Bob Hoffman also noted that the current ordinance is actually not enforceable; it has no criteria for designation or review.

Councilwoman Stark said she was not aware that the current ordinance was not enforceable.

Attorney Kelley commented that the original ordinance was submitted without much thought to Historic development, only because of the LCDC mandate. Originally, only three places were designated as Historic sites in Canby. Also, at that time there was no public interest, either pro or con. The proposed ordinance is more defensible, if necessary.

Councilman Nolder asked if we could put a "sunset" clause in the proposed ordinance. Mayor Taylor then questioned what would replace the ordinance upon sunset. Again, the Mayor reiterated that the ordinance could be changed by amendment.

****Councilman Daniels moved to reconsider on first reading Ordinance No. 905, AN ORDINANCE FOR THE CITY OF CANBY, COUNTY OF CLACKAMAS, OREGON, AMENDING TITLE 16 OF THE PLANNING AND DEVELOPMENT CODE, BY ADDING A NEW HISTORIC PRESERVATION DIVISION, DIVISION X AND AMENDING SECTION 16.38, and come up for final action on January 5, 1994. Motion seconded by Councilman Nolder and approved 4-0.**

UNFINISHED BUSINESS: None.

OTHER REPORTS OR ANNOUNCEMENTS: ODOT/DLCD Grant - Bob Hoffman informed the Council he had received information regarding grants offered by ODOT and DLCD. The three categories include: Transportation Planning Rule Implementation Grants; Land Use Alternative Grants, and Urban Growth Management Grants. At this time, Mr. Hoffman was asking Council for authorization to request application forms for the grants. The Council gave an unanimous approval for Mr. Hoffman to pursue the grant program.

Library Levy - Administrator Jordan informed the Council that the County-wide library levy which will be on the March ballot does not have the maintenance of effort clause that was proposed. Each jurisdiction will receive their full amount of levy money, plus reimbursement for their unincorporated circulation. He said in our case, we currently receive about \$85,000, and that should increase, if passed, to approximately \$145,00. The levy will be about 35 cents per thousand to the citizens. Mr. Jordan asked the Council to authorize sending a letter of support for the proposed levy.

The Council gave unanimous approval to send a letter of support under the Mayor's signature.

Police Department Update - Chief Giger reported the following update on his department and various other subjects:

*Pamphlets from the Red Cross were distributed to employees for "Family Disaster Plans," which listed items to put in a safety kit.

- * The United Way Campaign recently ended in the City and this year we doubled our contribution. Mr. Giger presented Bob Hoffman of Community Service a plaque for the most department contributions.
- * The Police Department has business 24 hours a day, 7 days a week with 22 positions.
- * They have a Crime Prevention D.A.R.E. Officer, along with other officers, who are taking "community policing" training.
- * One officer is taking gang related classes, there has been evidence of gang-related activity in Canby.
- * Steve Landis can now instruct through grade 12 and is a mentor, and evaluator for new D.A.R.E. officers. He also can instruct the D.A.R.E. program in Oregon.
- * Lieutenant Scharmota and Sergeant Pagano recently took a class in "Determining Personnel Needs," which has been most helpful.
- * Two officers and one reserve are involved in drug interdiction. They are able to pick out those involved in drug activity and gangs. Also, they have met with some neighborhood groups on drug awareness.
- * The department is hoping to use forfeiture money for a canine program for a drug detection dog. The initial cost would be \$6,000 the first year and about \$700 for annual maintenance.
- * A yearly activity report will soon be compiled and will give a comparison over the past seven years.
- * John Watts, Jim Scharmota and Ken Pagano recently celebrated 15 years with the department.

Interview Committee - Mayor Taylor appointed Cheryl Stark and Terry Prince to serve on a committee with him to interview citizens interested in the vacant Council positions. No deadline will be set for applications.

- ACTION REVIEW:**
1. Return with the Memorandum of Understanding on the EODD regarding the grant/loan.
 2. Implement Ordinance No. 906.
 3. Post Ordinance No. 905, for the second reading at the next meeting.
 4. Request forms for the Transportation/Planning projects.
 5. Send a letter of support for the County-wide library levy.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(h), regarding pending litigation. Motion seconded by Councilwoman Stark and approved 4-0.**

Mayor Taylor recessed the meeting at 9:35 p.m. to go into Executive Session. The regular session was reconvened at 10:33 p.m.

****Councilman Nolder moved to direct the City Attorney to file a a motion with LUBA to remand the Northwoods development issue back to the City Council for additional findings. Seconded by Councilwoman Stark and approved 4-0.**

Councilman Prince asked that the City research other jurisdictions regarding a city's ability to require applicants prepare findings in these types of issues.

Mayor Taylor noted that Mr. Prince had made some comments on the "power" of the chairman in the CREG draft by-laws. Mrs. Stark was interested in the length of the terms.

Mayor Taylor adjourned the session at 10:45 p.m.


EXECUTIVE SESSION
DECEMBER 15, 1993

Present: Mayor Taylor, Councilors Stark, Prince, Daniels and Nolder, Administrator Jordan, Attorney Kelley and Steve Pfeiffer.

Mayor Taylor called the session to order in the CUB board room at 9:45 p.m.

ORS 192.660 (1)(h) - The Council discussed the pending litigation involving the Northwoods development decision.

Mayor Taylor adjourned the meeting at 10:30 p.m.


Marilyn K. Perrett
City Recorder


Scott Taylor
Mayor

SUMMARY OF VOTES CAST

12/14/93

20:05

CLACKAMAS COUNTY, OREGON

SPECIAL ELECTION

DECEMBER 14, 1993

ELR200

ISSUE 1

PAGE 1

JOHN KAUFFMAN, COUNTY CLERK

* I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY * BY :

* SUMMARIZE THE RESULT OF VOTES CAST AT THE ELECTION INDICATED. *

* DATE OF ABSTRACT :

* DEC 15 1993 *

CITY OF CANBY

RECALL ELECTION

COUNCILMAN JOE DRIGGERS

CANDIDATE KEYS:

CAND-01 = YES

CAND-02 = NO

CAND-97 = OVERVOTES

CAND-98 = UNDERVOTES

CAND-99 = TOTAL VOTES

POLL PRE	CAND-01	CAND-02	CAND-97	CAND-98	CAND-99
122	209	182	0	17	408
123	174	141	0	12	327
124	354	363	0	11	728
125	267	230	0	18	515
126	349	380	1	27	757
TOTALS	1,353	1,296	1	85	2,735

RECEIVED

DEC 17 1993

CITY OF CANBY.

SUMMARY OF VOTES CAST
12/14/93
20:05

CLACKAMAS COUNTY, OREGON
SPECIAL ELECTION
DECEMBER 14, 1993

ELR200 ISSUE 2
PAGE 1
JOHN KAUFFMAN, COUNTY CLERK

* I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY * BY :
* SUMMARIZE THE RESULT OF VOTES CAST AT THE ELECTION INDICATED. *

* DATE OF ABSTRACT : *
* DEC 15 1993 *

CITY OF CANBY
RECALL ELECTION
COUNCILWOMAN MAUREEN MILTENBERGER

CANDIDATE KEYS:

CAND-01 = YES
CAND-02 = NO
CAND-97 = OVERVOTES
CAND-98 = UNDERVOTES
CAND-99 = TOTAL VOTES

POLL PRE	CAND-01	CAND-02	CAND-97	CAND-98	CAND-99
122	217	182	0	9	408
123	175	140	0	12	327
124	353	368	0	7	728
125	270	232	1	12	515
126	350	381	1	25	757
TOTALS	1,365	1,303	2	65	2,735

RECEIVED

DEC 17 1993

CITY OF CANBY